

AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY MARCH 18, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 506

Introduced by Assembly Member Furutani

February 24, 2009

An act to amend Sections 24214, 24216, 24216.5, and 24216.6 of, *and to add Section 24214.5 to*, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 506, as amended, Furutani. State teachers' retirement: postretirement earnings.

(1) The State Teachers' Retirement Law limits the amount of postretirement compensation that may be earned in specified types of employment by a retired member of the Defined Benefit Program without a reduction in the retirement benefits of the member. That law, operative until June 30, 2010, provides exemptions from this limit and specifies that the limitation provisions do not apply to compensation earned by a member retired for service who has returned to work after retirement and, for at least 12 consecutive months, has not performed specified activities.

This bill would, as of July 1, 2010, apply a limitation of \$0 to the compensation for performance of specified activities as an employee of an employer, an employee of a third party, or as an independent contractor during the first ~~six~~ 6 calendar months after a member retired for service under this part, if the member is below normal retirement

age at the time the compensation is earned. This bill would also extend the operation of these provisions until June 30, 2012.

(2) Under that law, operative until June 30, 2010, the service retirement allowance of a retired member of the Defined Benefit Program is exempt from a reduction if the retired member is appointed as a trustee or administrator by the Superintendent of Public Instruction for a maximum period of 2 years, as specified. That law also exempts from the earnings limitation, until June 30, 2010, service performed by a retired member in an emergency situation to fill a vacant administrative position, as specified. The law requires the employing school district to submit documentation to substantiate the eligibility of the temporary employment of the retired member for these exemptions.

This bill would provide that these exemptions ~~would~~ end no more than 24 consecutive months, rather than 2 years, from the date the exemption commenced. The bill would prohibit an exemption under the latter provision from being granted to a member retired for service whose termination of employment with the employer is the basis for the vacant administrative position. This bill would require the documentation *to substantiate that exception* to be received by the system no later than June 30 of the school year for which the exemption is to apply. The bill would extend these provisions until June 30, 2012.

(3) That law further exempts from the earnings limitation, until June 30, 2010, compensation received by a retired member providing specified types of services, including direct remedial instruction, as specified, if that retired member retired on or before January 1, 2007. That law requires a school district that employs the retired member to submit documentation to the retirement system that substantiates the eligibility of the temporary employment of the retired member for this exemption.

This bill would provide that the compensation received by a retired member providing those specified types of services is exempt from the earnings limitation if the member retired for service with an effective date on or before January 1, 2009. The bill would require the documentation *to substantiate that exception* to be received by the system no later than June 30 of the school year for which the exemption is to apply. The bill would extend these provisions until June 30, 2012.

(4) This bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 24214 of the Education Code, as amended
2 by Section 5 of Chapter 494 of the Statutes of 2008, is amended
3 to read:

4 24214. (a) A member retired for service under this part may
5 perform the activities identified in subdivision (a) or (b) of Section
6 22119.5 as an employee of an employer, as an employee of a third
7 party, or as an independent contractor within the California public
8 school system, but the member may not make contributions to the
9 retirement fund or accrue service credit based on compensation
10 earned from that service. The employer shall maintain accurate
11 records of the earnings of the retired member and report those
12 earnings monthly to the system and retired member as described
13 in Section 22461.

14 (b) If a member is retired for service under this part, the rate of
15 pay for service performed by that member as an employee of the
16 employer, as an employee of a third party, or as an independent
17 contractor may not be less than the minimum, nor exceed that paid
18 by the employer to other employees performing comparable duties.

19 (c) A member retired for service under this part may not be
20 required to reinstate for performing the activities identified in
21 subdivision (a) or (b) of Section 22119.5 as an employee of an
22 employer, as an employee of a third party, or as an independent
23 contractor within the California public school system.

24 (d) A member retired for service under this part may earn
25 compensation for performing activities identified in subdivision
26 (a) or (b) of Section 22119.5 in any one school year up to the
27 limitation specified in subdivision (f) as an employee of an
28 employer, as an employee of a third party, or an independent
29 contractor, within the California public school system, without a
30 reduction in his or her retirement allowance.

31 (e) (1) The postretirement compensation limitation provisions
32 set forth in this section are not applicable to compensation earned
33 by a member retired for service under this part who has returned
34 to work after the date of retirement and, for a period of at least 12
35 consecutive months, has not performed the activities identified in
36 subdivision (a) or (b) of Section 22119.5 as an employee of an
37 employer, as an employee of a third party, or as an independent
38 contractor within the California public school system. For the

1 purpose of this paragraph, the period of 12 consecutive months
2 shall begin no earlier than the effective date of the member's most
3 recent retirement.

4 (2) The postretirement compensation limitation provisions set
5 forth in this section are not applicable to compensation earned for
6 the performance of the activities described in subdivision (a) for
7 which the employer is not eligible to receive state apportionment
8 or to compensation that is not creditable pursuant to Section
9 22119.2.

10 (f) The limitation that shall apply to the compensation for
11 performance of the activities identified in subdivision (a) or (b) of
12 Section 22119.5 by a member retired for service under this part
13 either as an employee of an employer, an employee of a third party,
14 or as an independent contractor shall, in any one school year, be
15 an amount calculated by the board each July 1 equal to twenty-two
16 thousand dollars (\$22,000) adjusted by the percentage change in
17 the average compensation earnable of active members of the
18 Defined Benefit Program, as determined by the system, from the
19 1998–99 fiscal year to the fiscal year ending in the previous
20 calendar year. ~~Notwithstanding the preceding sentence, as of July~~
21 ~~1, 2010, the limitation that shall apply to the compensation for~~
22 ~~performance of the activities identified in subdivision (a) or (b) of~~
23 ~~Section 22119.5 either as an employee of an employer, an~~
24 ~~employee of a third party, or as an independent contractor shall~~
25 ~~be zero dollars (\$0) during the first six calendar months after a~~
26 ~~member retired for service under this part, if the member is below~~
27 ~~normal retirement age at the time the compensation is earned.~~

28 (g) If a member retired for service under this part earns
29 compensation for performing activities identified in subdivision
30 (a) or (b) of Section 22119.5 in excess of the limitation specified
31 in subdivision (f), as an employee of an employer, as an employee
32 of a third party, or as an independent contractor, within the
33 California public school system, and if that compensation is not
34 exempt from that limitation under subdivision (e) or any other
35 provisions of law, the member's retirement allowance shall be
36 reduced by the amount of the excess compensation. The amount
37 of the reduction may be equal to the monthly allowance payable
38 but shall not exceed the amount of the annual allowance payable
39 under this part for the fiscal year in which the excess compensation
40 was earned.

1 (h) The amendments to this section enacted during the 1995–96
2 Regular Session shall be deemed to have become operative on July
3 1, 1996.

4 (i) This section shall remain in effect only until June 30, 2012,
5 and shall be repealed on January 1, 2013, unless a later enacted
6 statute deletes or extends that date.

7 SEC. 2. Section 24214 of the Education Code, as amended by
8 Section 6 of Chapter 494 of the Statutes of 2008, is amended to
9 read:

10 24214. (a) A member retired for service under this part may
11 perform the activities identified in subdivision (a) or (b) of Section
12 22119.5 as an employee of an employer, as an employee of a third
13 party, or as an independent contractor within the California public
14 school system, but the member may not make contributions to the
15 retirement fund or accrue service credit based on compensation
16 earned from that service. The employer shall maintain accurate
17 records of the earnings of the retired member and report those
18 earnings monthly to the system and retired member as described
19 in Section 22461.

20 (b) If a member is retired for service under this part, the rate of
21 pay for service performed by that member as an employee of the
22 employer, as an employee of a third party, or as an independent
23 contractor within the California public school system may not be
24 less than the minimum, nor exceed that paid by the employer to
25 other employees performing comparable duties.

26 (c) A member retired for service under this part may not be
27 required to reinstate for performing the activities identified in
28 subdivision (a) or (b) of Section 22119.5 as an employee of an
29 employer, as an employee of a third party, or as an independent
30 contractor within the California public school system.

31 (d) A member retired for service under this part may earn
32 compensation for performing activities identified in subdivision
33 (a) or (b) of Section 22119.5 in any one school year up to the
34 limitation specified in subdivision (f) as an employee of an
35 employer, as an employee of a third party, or an independent
36 contractor, within the California public school system, without a
37 reduction in his or her retirement allowance.

38 (e) The postretirement compensation limitation provisions set
39 forth in this section are not applicable to compensation earned for
40 the performance of the activities described in subdivision (a) for

1 which the employer is not eligible to receive state apportionment
2 or to compensation that is not creditable pursuant to Section
3 22119.2.

4 (f) The limitation that shall apply to the compensation for
5 performance of the activities identified in subdivision (a) or (b) of
6 Section 22119.5 by a member retired for service under this part
7 either as an employee of an employer, an employee of a third party,
8 or as an independent contractor shall, in any one school year, be
9 an amount calculated by the board each July 1 equal to twenty-two
10 thousand dollars (\$22,000) adjusted by the percentage change in
11 the average compensation earnable of active members of the
12 Defined Benefit Program, as determined by the system, from the
13 1998–99 fiscal year to the fiscal year ending in the previous
14 calendar year. ~~Notwithstanding the preceding sentence, the~~
15 ~~limitation that shall apply to the compensation for performance of~~
16 ~~the activities identified in subdivision (a) or (b) of Section 22119.5~~
17 ~~either as an employee of an employer, an employee of a third party,~~
18 ~~or as an independent contractor shall be zero dollars (\$0) during~~
19 ~~the first six calendar months after a member retired for service~~
20 ~~under this part, if the member is below normal retirement age at~~
21 ~~the time the compensation is earned.~~

22 (g) If a member retired for service under this part earns
23 compensation for performing activities identified in subdivision
24 (a) or (b) of Section 22119.5 in excess of the limitation specified
25 in subdivision (f), as an employee of an employer, as an employee
26 of a third party, or as an independent contractor, within the
27 California public school system, the member's retirement
28 allowance shall be reduced by the amount of the excess
29 compensation. The amount of the reduction may be equal to the
30 monthly allowance payable but may not exceed the amount of the
31 annual allowance payable under this part for the fiscal year in
32 which the excess compensation was earned.

33 (h) The language of this section derived from the amendments
34 to the section of this number added by Chapter 394 of the Statutes
35 of 1995, enacted during the 1995–96 Regular Session, is deemed
36 to have become operative on July 1, 1996.

37 (i) This section shall become operative on July 1, 2012.

38 *SEC. 3. Section 24214.5 is added to the Education Code, to*
39 *read:*

24214.5. (a) Notwithstanding Section 24214, as of July 1, 2010, the postretirement compensation limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 either as an employee of an employer, an employee of a third party, or as an independent contractor shall be zero dollars (\$0) during the first six calendar months after a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned.

(b) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (a), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

~~SEC. 3.~~

SEC. 4. Section 24216 of the Education Code is amended to read:

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent pursuant to Section 41320.1, or who is appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28) or the High Priority Schools Grant Program (Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28), or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of 24 consecutive months.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned to the position and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system providing that the Superintendent or the county superintendent of schools submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) (1) A member retired for service under this part who is employed by an employer to perform creditable service in an emergency situation to fill a vacant administrative position requiring highly specialized skills shall be exempt from the provisions of subdivisions (d) and (f) of Section 24214 for creditable service performed up to one-half of the full-time position, if the vacancy occurred due to circumstances beyond the control of the employer.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned to the position and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system subject to the following conditions:

(A) The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.

(B) The employment is reported in a public meeting of the governing body of the employer.

(C) The employer submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(4) An exemption under this subdivision shall not be granted to a member retired for service whose termination of employment with the employer is the basis for the vacant administrative position.

(c) This section does not apply to any person who has received additional service credit pursuant to Section 22715 or 22716.

(d) A person who has received additional service credit pursuant to Section 22714 or 22714.5 shall be ineligible for one year from the effective date of retirement for the exemption provided in this

1 section for service performed in any school district, community
2 college district, or county office of education in the state.

3 (e) This section shall remain in effect only until June 30, 2012,
4 and shall be repealed on January 1, 2013, unless a later enacted
5 statute deletes or extends that date.

6 ~~SEC. 4.~~

7 *SEC. 5.* Section 24216.5 of the Education Code is amended to
8 read:

9 24216.5. (a) The compensation earned by a member who
10 retired for service under this part shall be exempt from subdivisions
11 (d), (f), and (g) of Section 24214, if all of the following conditions
12 are met:

13 (1) The member retired for service with an effective date on or
14 before January 1, 2009.

15 (2) The member retired for service is employed by a school
16 district to provide any of the following:

17 (A) Direct classroom instruction to pupils enrolled in
18 kindergarten or any of grades 1 to 12, inclusive.

19 (B) Support and assessment for new teachers through the
20 Beginning Teacher Support and Assessment program authorized
21 by Section 44279.1.

22 (C) Support to individuals completing student teaching
23 assignments.

24 (D) Support to individuals participating in the following
25 programs:

26 (i) Pre-Internship Teaching Program authorized pursuant to
27 Article 5.6 (commencing with Section 44305) of Chapter 2 of Part
28 25.

29 (ii) Alternative certification programs authorized pursuant to
30 Article 11 (commencing with Section 44380) of Chapter 2 of Part
31 25.

32 (iii) School Paraprofessional Teacher Training Program
33 established pursuant to Article 12 (commencing with Section
34 44390) of Chapter 2 of Part 25.

35 (E) Instruction and pupil services provided to pupils enrolled
36 in special education programs authorized pursuant to Part 30
37 (commencing with Section 56000) of Division 4 of Title 2.

38 (F) Instruction to pupils enrolled in English language learner
39 programs authorized pursuant to Chapter 3 (commencing with
40 Section 300), Chapter 4 (commencing with Section 400), and

Chapter 6 (commencing with Section 430) of Part 1 of Division 1.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school district. The compensation for service performed by this class of employees shall be established in accordance with subdivision (b) of Section 24214 and agreed to in the collective bargaining agreement between the employing school district and the exclusive representative for the existing bargaining unit within which these temporary employees of the school district are treated as a distinct class.

(4) The employing school district submits documentation required by the system to substantiate the eligibility of the temporary employment of a member retired for service for the exemption under this subdivision. The documentation shall be received by the system no later than June 30 of the school year for which the exemption is to apply.

(b) A school district that employs a member retired for service pursuant to this section shall maintain accurate records of the retired member's compensation earned and shall report that compensation monthly to the system regardless of the method of payment or the source of funds from which the compensation is paid.

(c) This section does not apply to the compensation earned for creditable service performed by a member retired for service for a community college district.

(d) This section shall remain in effect only until June 30, 2012, and shall be repealed as of January 1, 2013, unless a later enacted statute deletes or extends that date.

~~SEC. 5.~~

SEC. 6. Section 24216.6 of the Education Code is amended to read:

24216.6. (a) The compensation earned by a member who retired for service under this part shall be exempt from subdivisions (d), (f), and (g) of Section 24214, if all of the following conditions are met:

1 (1) The member retired for service with an effective date on or
2 before January 1, 2009.

3 (2) The member retired for service is employed by a school
4 district to provide direct remedial instruction to pupils in grades
5 2 to 12, inclusive. "Remedial instruction" means the programs
6 specified in Sections 37252 and 37252.2.

7 (3) All members retired for service whose employment with a
8 school district meets the conditions specified in this section shall
9 be treated as a distinct class of temporary employees within the
10 existing bargaining unit whose service may not be included in
11 computing the service required as a prerequisite to attainment of
12 or eligibility for classification as a permanent employee of a school
13 district. The compensation for service performed by this class of
14 employees shall be established in accordance with subdivision (b)
15 of Section 24214 and agreed to in the collective bargaining
16 agreement between the employing school district and the exclusive
17 representative for the existing bargaining unit within which these
18 temporary employees of the school district are treated as a distinct
19 class.

20 (4) The employing school district submits documentation
21 required by the system to substantiate the eligibility of the
22 temporary employment of a member retired for service for the
23 exemption under this subdivision. That documentation shall be on
24 a properly executed form provided by the system and shall be
25 received by the system no later than June 30 of the school year for
26 which the exemption is to apply.:

27 (b) A school district that employs a member retired for service
28 pursuant to this section shall maintain accurate records of the
29 retired member's compensation earned and shall report that
30 compensation monthly to the system regardless of the method of
31 payment or the source of funds from which the compensation is
32 paid.

33 (c) This section does not apply to the compensation earned for
34 creditable service performed by a member retired for service for
35 a county office of education or a community college district.

36 (d) This section shall remain in effect only until June 30, 2012,
37 and shall be repealed as of January 1, 2013, unless a later enacted
38 statute deletes or extends that date.

O